AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, IMPLEMENTING PROCEDURES TO PROVIDE A VENDOR PREFERENCE IN THE AWARD OF CONTRACTS FOR GOODS AND CONTRACTUAL SERVICES, TO FLORIDA SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS AND TO STATE-CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES BY AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH ENTITLED, "ADMINISTRATION," BY AMENDING ARTICLE VI THEREOF ENTITLED, "PROCUREMENT," BY AMENDING DIVISION 3 ENTITLED, "CONTRACT PROCEDURES," BY CREATING SECTION 2-374; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, in order to increase contracting opportunities for small business concerns owned and controlled by veterans, Section 502 of the "Veterans Benefits, Health Care, and Information Technology Act of 2006" (the Federal Act) allows for certain preferences in the award of contracts to such small business concerns, if the small business and the veteran owner are listed in the federal Database of Veteran-Owned Businesses; and

WHEREAS, Section 295.187, Florida Statutes, also referred to as the "Florida Service-Disabled Veteran Business Enterprise Opportunity Act" (the State Act), permits State agencies, when considering two or more bids, proposals, or replies for the procurement of goods or contractual services, at least one of which is from a State-certified service-disabled veteran business enterprise, that are equal with respect to all relevant considerations, including price, quality, and service, to award such procurement or contract to the State-certified service-disabled veteran business enterprise; and

WHEREAS, the State Act also encourages political subdivisions of the State of Florida to offer similar consideration to businesses certified under the Act; and

WHEREAS, the Mayor and City Commission desires to honor the extraordinary service rendered to the United States by veterans with disabilities incurred or aggravated in the line of duty during active service with the armed forces; and

WHEREAS, accordingly, it is the intent of the Mayor and City Commission to apply similar requirements, as set forth and allowed under the respective provisions of the Federal and State Acts, to the City of Miami Beach, in order to rectify the economic disadvantage of veterans and service-disabled veterans, who are statistically the least likely to be self-employed when compared to the population as a whole, and who have made extraordinary sacrifices on behalf of the nation, the State of Florida, and the public, by providing opportunities for small businesses in Florida owned and controlled by veterans, and which are listed in the federal database of veteran-owned businesses, and State-certified service-disabled veteran business enterprises, preference in the award of contracts for goods and contractual services; and

WHEREAS, the following ordinance will not result in the City paying more for goods and services, since it provides eligible veterans and service-disabled veterans with the opportunity of providing such goods and services at the same cost as the lowest bid received; and

WHEREAS, the basic tenet of public procurement of ensuring maximum competition will remain intact by requiring competitive bids.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA as follows:

SECTION 1: That Chapter 2, Article VI, Division 3 of the Miami Beach City Code is hereby amended creating a new Section 2-374 as follows:

ARTICLE VI. PROCUREMENT

* * * *

DIVISION 3. CONTRACT PROCEDURES

Sec. 2-374. Procedure to provide preference to Veterans in contracts for goods and contractual services.

- (1) Definitions. For purposes of this section only, the following definitions shall apply:
 - (a) <u>Bid</u> shall mean a competitive procedure established by the City through the issuance of an invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), request for letters of interest (RFLI), or the solicitation of purchase orders based on oral or written quotations.
 - (b) Certified service-disabled veteran business enterprise means an independently owned and operated business, domiciled in Florida, and as further defined under Section 295.187(3)(c) of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act, as same may be amended from time to time, that has been certified by the Florida State Department Management Services to be a service-disabled veteran business enterprise.
 - (c) <u>Service-disabled veteran</u> means a veteran who is a permanent Florida resident with a service-connected disability, as determined by the United States Department of Veterans Affairs, or who has been terminated from military service by reason of disability by the United States Department of Defense.
 - (d) <u>Service-disabled business enterprise</u> means an independently owned and operated business, domiciled in Florida, and as further defined in Section 295.187(3)(c) of the "Florida Service-Disabled Veteran Business Enterprise Opportunity Act," as same may be amended from time to time.
 - (e) Small business concerns owned and controlled by veterans means those independently owned and operated small businesses, as defined in Section 502 of

- the Veterans Benefits, Health Care, and Information Technology Act of 2006, as same may be amended from time to time, which are also domiciled in Florida, and listed in the federal Database of Veteran-owned Businesses.
- (f) Veteran means a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions. For purposes of this section, the definition of "veteran" shall adopt the same definition, as provided therefor in Section 1.01(14), Florida Statutes, as same may be amended from time to time.

(2) Preference in purchase of goods or contractual services.

- (a) ITB's and requests for oral or written qualifications. The city, when considering two (2) or more bids submitted pursuant to an ITB or an oral or written request for quotations for the purchase of goods or contractual services shall give a preference to a responsive and responsible bidder which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise, and which is within five percent (5%) of the lowest and best bidder, by providing such bidder an opportunity of providing said goods or contractual services for the lowest responsive bid amount. Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more bidders which are a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise constitute the lowest bid pursuant to an ITB or oral or written request for quotation, and such bids are responsive, responsible and otherwise equal with respect to quality and service, then the award shall be made to the service-disabled veteran business enterprise.
- (b) Request for proposals, request for qualifications, and request for letters of interest. The city commission, or the city manager (in instances where such action has been delegated to the manager), in considering, determining, and/or approving the evaluation methodology, selection criteria, and/or other factors determined by the city to applicable in the recommendation and selection of proposers submitting responses pursuant to an RFP, RFQ, or RFLI, as appropriate, shall include (as part of such evaluation methodology, selection criteria, and/or other applicable factors to be set forth and included within the RFP, RFQ, or RFLI document) and give an additional five (5) points (where the evaluation methodology is based on points system from 0 100 points), or an additional five percent (5%) (where the evaluation methodology is based on a percentage system from 0 100%), to proposers, which are, or include as part of their proposal team, a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise.

(3) Comparison of qualifications.

The preferences established herein in no way prohibit the right of the City Manager and/or the Mayor and City Commission, as applicable, to compare quality of goods and/or contractual services proposed for purchase and compare qualifications, character, responsibility and fitness of all person, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the City Manager and/or the Mayor and City Commission, as applicable, from giving any other preference permitted by law in addition to the preferences granted herein.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

City Clerk

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE.	
This Ordinance shall take effect on the 24th (10) days after adoption.	day of December, 2011, which is ten
PASSED and ADOPTED this 14th	day of <u>December</u> , 2011.
ATTEST: COLUMN PAR ILAR	Mayor H. Louses

Letters or numbers that are stricken through are deletions from existing ordinance. Letters or numbers that are underlined are additions to existing ordinance.

F:\ATTO\AGUR\RESOS-ORD\Veteran Preference Ordinance (8-17-11).doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney Date